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Mr. Bill Wynne and Ms. Kelly Buffa
Oly-Mandalay Bay, GP
600 Victoria Avenue, #600A
Oxnard, CA 93035

CONDITIONAL CERTIFICATION FOR PROPOSED SEABRIDGE AT CHANNEL ISLANDS HARBOR (TRACT 5266) PROJECT (CORPS' PROJECT NO. 2002-00698-JWM), CHANNEL ISLAND HARBOR, CITY OF OXNARD, VENTURA COUNTY (FILE NO. 02-025)

Dear Mr. Wynne and Ms. Buffa:

Regional Board staff has reviewed your request on behalf Oly-Mandalay Bay, GP (the Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on September 4, 2002.

I hereby certify that any discharge from the Seabridge at Channel Islands Harbor (Tract 5266) Project, as proposed and described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 576-6759.

[Original Signed By:]

[October 4, 2002]

Dennis A. Dickerson

Date

California Environmental Protection Agency

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***For a list of simple ways to reduce demand and cut your energy costs, see the tips at:
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ATTACHMENT A

Project Information
File No. 01-000

Executive Officer

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ATTACHMENT A

Project Information

File No. **02-025**

1. Applicant: Oly-Mandalay Bay, GP
Attn: Bill Wynne and Kelly Buffa
600 Victoria Ave., #600A
Oxnard, CA 93035
Phone: (805) 382-9244 Fax: (805) 382-3245
2. Applicant's Agent: Moffatt & Nichol Engineers
Attn: Anne-Lise Lindquist
1660 Hotel Circle North, Suite 200
San Diego, CA 92108
Phone: (562) 426-9551 Fax: (562) 424-7489
3. Project Name: Seabridge at Channel Islands Harbor (Tract 5266)
4. Project Location: City of Oxnard, Ventura County
Latitude: N 34° 11'; Longitude: W 119° 13'
5. Type of Project: Mixed-use development and Marina Construction.
6. Project Description:

Purpose: The purpose of the proposed project is to implement the remainder of the mixed-use development for the Mandalay Specific Plan and elements of the City of Oxnard Coastal Land Use Plan.

Description: The proposed project site consists of 135.3 acres including the following:

 - 34.7 acres of commercial space
 - 16.5 acres of public recreation area
 - 274 single-family units
 - 42 multi-family residential units
 - 32.3 acres of open water space

The 32.3 acres of open water space includes 8.1 acres of shallow bay area. The proposed project will also connect two existing channels south of the development site (Hemlock channel and Marina East Channel) and propose channel improvements to Main Channel in Tract 5196.

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Minor adjustments to the existing revetted channel banks may be needed to uniformly tie the proposed and existing channels together. These adjustments may include removing, adding or adjusting the existing armoring. The total areas that will be included in the adjustments are as follows:

East Channel

A maximum of 40 feet in length along the existing revetted slopes. The revetment is 16 feet in width, totaling an area of 640 square feet.

Hemlock Channel

A maximum of 25 feet in length along each side (north and south) of the existing revetted slopes. The revetment is 16 feet in width, totaling an area of 800 square feet.

The proposed development will create five (5) new marina channels, which will connect to (2) existing channels at the southern portion of the development site. The soil to be removed in order to create the channels will be removed in the following phases:

- Phase 1 = 50,000 cy
- Phase 2 = 7,000 cy
- Phase 3 = 6,000 cy

Approximately 63,000 cubic yards of soil will be removed during the construction of the marina channels. Once each phase of channels is completed, the levee will be removed and the channels will be filled with water.

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|--|---|
| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers Section 10 and 404
Permit No. 2002-00698-PJF |
| 8. Other Required
Regulatory Approvals: | California Coastal Commission
Coastal Development Permit

City of Oxnard |

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Coastal Development Permit

RWQCB
Stormwater Permit

RWQCB
Dewatering Permit

- | | |
|--|--|
| 9. California Environmental Quality Act (CEQA) Compliance: | The City Council of the City of Oxnard approved the project's Subsequent Final Environmental Impact Report (SCH No. 2001091020) on August 8, 2002. |
| | |
| 10. Receiving Water: | Channel Islands Harbor, an outlet to Pacific Ocean (Hydrologic Unit No. 403.11) |
| | |
| 11. Designated Beneficial Uses: | IND, NAV, REC-1, REC-2, COMM, MAR, and WILD |
| | |
| 12. Impacted Waters of the United States: | Non-wetland waters (Ocean/Harbor): 0.03 temporary acres |
| | |
| 13. Dredge Volume: | None |
| | |
| 14. Related Projects | This project lies to the north of an existing high-density residential development built under an earlier phase of the Mandalay Bay Specific Plan. |
| | |
| 15. Avoidance/ Minimization Activities: | <p>The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:</p> <ul style="list-style-type: none">• As part of the construction of new waterways, a silt screen shall be placed around the new waterway prior to its opening and maintained in-placed until turbidity levels within the new waterway do not exceed that within the surrounding waters; |

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- Prior to removing any barriers that would allow water to flow from the development to existing canals, the applicant shall complete a water sampling program within the newly constructed channels. The sampling shall be in accordance with the Priority Pollutant list for Enclosed Bays, Estuaries, and Ocean Plan criteria, which includes metals, pesticides, and organics. The barriers shall not be breached until the results of the analysis are approved by the appropriate agency;
- Provide adequate curbing and channeling of stormwater runoff from excavated and existing water areas during construction;
- Construction vehicle fueling shall not occur within area where runoff into the water areas is possible, and
- All provisions of the Public Boat Dock Plan involving restrictions on Boat maintenance and requiring the use of BMPs shall be incorporated into boat slip agreements.

16. Proposed
Compensatory
Mitigation:

The Applicant has not proposed compensatory mitigation as there are no permanent adverse impacts to waters of the United States. The turbidity created during construction will be temporary and will be mitigated by construction practices during levee removal utilizing the following:

- Silt curtains;
- Balancing the water level between proposed and existing channels;
and
- Waiting for the incoming tide to remove the levee.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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File No. [02-025](#)

ATTACHMENT B

Conditions of Certification File No. 02-025

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit, the California Coastal Commission, and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
4. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.

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5. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
6. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
7. The Applicant shall restore the proposed **0.03 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species to the extent feasible. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project.
8. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** documenting the success of all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative photographs from designated stations shall be included in the

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reports. The reports shall be submitted by **January 1st** of each year for a period of **five (5) years** after planting.

9. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **02-025**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
10. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
11. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Ventura County and co-permittees under NPDES No. CAS004002 and Waste Discharge Requirements Order No. 00-108. This includes the Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.
12. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
 - (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

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13. This certification shall expire **five (5) years** from the date of signature. The Applicant may request a renewal of this certification prior to its termination. Renewals may be granted in **five-year (5-year)** increments, may be subject to additional filing fees, and will require Regional Board approval. If the Applicant fails to request a renewal prior to the certification's expiration, then the Applicant shall submit a new application and appropriate filing fees.